

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Masami Maekawa

Application No.: 10/653,193

Confirmation No.: 1753

Filed: September 3, 2003

Art Unit: 3626

For: EXAMINATION SCHEDULING PROGRAM
FOR NUCLEAR MEDICAL EXAMINATION
APPARATUS

Examiner: Rachel L. Porter

REPLY BRIEF

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a Reply Brief under 37 C.F.R. §41.41 in response to the Examiner's Answer mailed on May 5, 2011.

All arguments presented within the Appeal Brief of February 8, 2011 are incorporated herein by reference. Additional arguments are provided herein below.

(A) The Examiner asserts that the current claim language describing functions of the software program does not preclude the description of a graphical user interface or an operator performing the functions at a computer using the software program (see page 7 of the Examiner's Answer). Claim 1, however, recites, "*A single nuclear medical examination scheduling program stored in computer memory and having computer executable instructions for causing a computer to*

create a schedule for each patient including an examination by the nuclear medical examination apparatus and a medication accompanying the examination..." Thus, in the present invention, the single nuclear medical examination scheduling program itself contains the instructions that cause the computer to create a schedule. In the prior art systems, on the other hand, the user enters the instructions through a graphic interface. As such, in the prior art systems, the instructions are not included in the program itself.

The Examiner also asserts that it would have been obvious to one of ordinary skill in the art to combine White et al. and Kameda et al. to create an examination schedule based on information on contents of the examination, an order of examination and the waiting time (see page 8 of the Examiner's Answer). The system of White et al., however, does not search for available vacancies and requires an operator to determine vacancies visually and create schedules (see pages 6-7 of Applicant's Appeal Brief which explains in detail these features of White et al.). That is, the system of White et al. is different in construction from the processing unit of the computer of the present invention.

(B) In response to Applicant's argument that prior art does not create a schedule automatically, the Examiner asserts that the features upon which Applicant relies upon are not recited in the claims. However, it is clear from the language of claim 1 that, after each information is inputted, the computer fetches the information, and based on the information, creates an examination schedule to avoid overlapping in time between the timing of the medication for a certain patient and the timing of the medication for other patients and between the timing of the examination for the certain patient and the timing of the examination of the other patients.

The Examiner also argues that a user/operator performs scheduling/scheduling creation steps in the present specification with the assistance of the computer program. The Examiner cites page 15, lines 10-15 and page 19, lines 1-12 of the present specification to support this assertion (see page 9 of the Examiner's Answer). However, these portions of the present specification fail to support the Examiner's position. In particular, page 15, lines 10-15 of the present specification only describes inputting the information required for scheduling, such as the patient name. The only timing-related data entered is the choice of preferred days for the examination. The user does not

enter the exact time of the examination, because the examination schedule is created by the computer. It is unreasonable to use this as the grounds for determining that the user/operator performs scheduling/scheduling creation steps in the present specification. Further, page 19, lines 1-12 of the present specification describes alteration of the schedule with a pointing device. This description is a statement relating to a dependent claim and it is therefore also unreasonable to rely on it in determining that the user/operator performs scheduling/scheduling creation steps in the present specification. Moreover, this portion of the specification also states that after one part of the schedule is altered, the processing unit automatically carries out the scheduling again to avoid overlapping in time between the timing of the medication for a certain patient and the timing of the medication for other patients and between the timing of the examination for the certain patient and the timing of the examination for the other patients. Thus, the computer is still creating the schedule as required by the present claims.

(C) In response to Applicant's argument that the present invention differs from the prior art because it can avoid overlapping of the timing of the medication required for a nuclear medical examination, the Examiner insists that White et al. discloses a system and computer program for generating/creating an examination schedule for several radiological procedures on equipment using patient queues and tracking based upon retrieved data and that it would have been obvious to include such features in Kameda et al. (see page 10 of the Examiner's Answer). However, as discussed above and in Applicant's Appeal Brief, White et al. does not create a schedule by automatically finding available vacancies, but instead employs an operator to visually determine such vacancies. Thus, the computer does not create the schedules of White et al. The queues of White et al. are not the same as the schedules of the present invention because the queues are only lists of what order procedures are to be done in, and/or what time procedures were completed. Unlike the present invention, the queues do not show what time each procedure should be scheduled at. Therefore, the present invention is distinct from the combination of White et al. and Kameda et al.

(D) The Examiner continues to insist that the combined teachings of White et al. and Kameda et al. do address the limitation of “*creating a schedule to avoid overlapping in time between timing of the medication and the examination for each patient and timing of medication and examination for other patients*” (see pages 11-12 of the Examiner’s Answer). White et al., however, only discloses the user creating a schedule by inputting patients’ appointment times to avoid overlapping with other patients’ appointment times. In other words, in White et al., the user creates the schedule by directly inputting patients’ appointment dates and times based on the consideration of available times for diagnosis on a day-to-day or hourly basis. Thus, White et al. does not disclose or suggest the feature of creating an examination schedule to avoid overlapping in time between timing of medication and examination for each patient and timing of medication and examination for other patients based on the information on contents of the examination and an order of examination and the waiting time.

Applicant further submits that it is clear from the language of present claim 1 that the schedule is created by arranging various time segments in a manner that avoids overlapping one segment with another segment. More specifically, this feature of the present invention is a scheduling function of the computer’s processing unit. It is not a function performed by a user, but rather, it is a function that the program of the present invention causes the computer to perform. While it may be an intended use to create schedules, avoiding overlapping in time is a function of the computer’s processing unit and not an intended use limitation.

(E) The Examiner also continues to insist that the prior art teaches generating a schedule in the same manner recited in dependent claim 2 (see page 12 of the Examiner’s Answer). However, claim 2, which is dependent on independent claim 1, is premised on a computer-generated schedule that avoids overlapping the timing of the medication and examination for each patient with those of other patients. Therefore, Kameda et al., even though it discloses scheduling using a pattern, does not disclose claim 2 of the subject application.

Therefore, for the above-described reasons and the reasons set forth in the Appeal Brief dated February 8, 2011, Applicant believes that the outstanding rejections set forth in the final Office Action dated June 8, 2010 cannot be sustained and should be withdrawn.

CONCLUSION

For at least the reasons set forth hereinabove, the rejection(s) of the claimed invention should not be sustained. Therefore, a reversal of the Final Rejection of June 8, 2010 is respectfully requested.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account #50-4422

Dated: July 5, 2011

Respectfully submitted,

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Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 50-4422 for any such fees; and Applicant(s) hereby petition for any needed extension of time.